

UNITED STATES OF AMERICA
 NATIONAL TRANSPORTATION SAFETY BOARD
 OFFICE OF ADMINISTRATIVE LAW JUDGES

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Investigation of:

COSCO BUSAN/BRIDGE ALLISION
 SAN FRANCISCO, CALIFORNIA

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 * Docket No.: DCA-08-MM-004
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Interview of: BARRY McFARLAND

Westin Hotel
 San Francisco, California

Thursday,
 March 13, 2008

The above-captioned matter convened, pursuant to notice.

BEFORE: PAUL STANSEL
 CRYSTAL THOMAS

APPEARANCES:

CRYSTAL THOMAS

National Transportation Safety Board

PAUL STANSEL

Hazardous Materials Accident Investigator

National Transportation Safety Board

R.W. HOLLY, Captain

State of California, Department of Fish and Game

Office of Spill Prevention and Response

425G Executive Court North

Fairfield, CA 94585

(707) 864-4902

(707) 864-4910 (fax)

WILLIAM CARTER, ESQ.

O'Brien's Group

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I N T E R V I E W

(4:43 p.m.)

MR. STANSEL: Okay, good afternoon. My name is Paul Stansel with the National Transportation Safety Board. Today is March 13th, 2008, at 4:43 p.m. We're at the Westin Hotel in San Francisco, California and we're here today to interview Barry McFarland with the O'Brien's Group. And I'd like to go around and identify everyone that's present in the room at this time.

MS. THOMAS: Crystal Thomas, NTSB.

MR. HOLLY: Rick Holly, the Department of Fish and Game, Office of Spill Prevention and Response.

MR. CARTER: William Carter, counsel for the O'Brien's Group.

MR. McFARLAND: And Barry McFarland with the O'Brien's Group.

MR. STANSEL: All right. Mr. McFarland, are you aware that the conversation is being recorded?

MR. McFARLAND: I am.

MR. STANSEL: And do you consent to the recording, sir?

MR. McFARLAND: I do.

INTERVIEW OF BARRY McFARLAND

BY MR. STANSEL:

Q. Thank you. Okay, just to start off with, if you could give us a little bit of information about your background and

1 expertise in oil spill?

2 A. My personal background or the company background?

3 Q. The company and your personal background.

4 A. Okay. The O'Brien's Group was originally formed in 1983
5 and we're a pollution response organization, providing spill
6 management team services to vessels and other facilities. We are
7 contracted by or were contracted by the Cosco Busan, as a spill
8 management team organization for them, under their non-tank vessel
9 response plan, both the federal plan and the State of California's
10 non-tank vessel oil spill plan. I've been with O'Brien's for
11 almost nine -- for about eight and a half years, since 1999. My
12 current title is Manager of Consulting Services/West Coast.

13 Q. Okay.

14 A. And I'm based out of the Brea, California office.

15 Q. O'Brien's is on retainer with the shipping company?

16 A. Yes, we're on retainer.

17 Q. Okay. And what's your relationship with MSRC and NCRE
18 -- NRCES?

19 A. Our relationship is that we're companies in the same
20 business.

21 Q. Is NRCES a subsidiary of the O'Brien's Group or --

22 A. No, it's not.

23 Q. It's not.

24 MS. THOMAS: Are they sister companies?

25 MR. McFARLAND: We are related. We have a common parent

1 company.

2 MR. CARTER: Did you say MSRC or NRC?

3 MR. STANSEL: NRCS.

4 BY MR. STANSEL:

5 Q. And MSRC you're not related to at all?

6 A. No.

7 Q. Okay. Concerning the November 7th bridge allision with
8 the Cosco Busan, how did your company get brought into the
9 incident? When were you first notified of what happened?

10 A. O'Brien's was first notified by the ship itself and --
11 which was call to our Slidell, Louisiana emergency command center
12 and I believe my recollection is that we were notified about 09:12
13 local time, 9:12 a.m.

14 MR. CARTER: That would be Pacific time that you're
15 talking about?

16 MR. McFARLAND: Well, local time, yeah. Pacific time,
17 incident location time.

18 BY MR. STANSEL:

19 Q. And that call came from whom on the ship?

20 A. My recollection or my understanding is that it came from
21 the master. I did not receive the call.

22 Q. Okay. What information was ultimately conveyed to you
23 about the spill or this incident?

24 A. Conveyed to me? When I was notified it was conveyed to
25 me that a vessel had allided with the delta tower of the

1 Oakland/San Francisco Bay Bridge and it was a casualty. We didn't
2 have any information initially on any kind of spill or spill
3 volume.

4 Q. There was no assessment on the size of the spill at that
5 time?

6 A. Not at that time.

7 Q. Okay. And was there any subsequent follow-up
8 information that came to you about that?

9 A. About?

10 Q. Did you get another call any time later advising that
11 the spill was a certain size or volume?

12 A. I did not receive a call giving information on the
13 volume.

14 Q. Okay. So what did you do at that point, did you
15 respond?

16 A. At that point, I made some phone calls to activate
17 resources.

18 MR. CARTER: Are you saying, throughout the entire day
19 you never got any other calls about volume, or just about the
20 initial call?

21 MR. McFARLAND: I was -- yeah. Well, we received
22 information from others, about suspected volumes, but I never
23 received a call.

24 BY MR. STANSEL:

25 Q. Yeah, I was specifically referring to the ship itself or

1 the ship's master or ship's representative.

2 A. I'm not aware of any phone calls we received --

3 Q. Okay.

4 A. -- about volumes from the ship.

5 Q. Okay. And then, later on, was it -- did you receive
6 information from other sources?

7 A. Yes.

8 Q. And what was that information?

9 A. The first information that I received was from a phone
10 call to MSRC. They had just recently received a call from a
11 pilot. I don't know which -- who the pilot was that called them.

12 Q. Okay.

13 A. And I talked to Barry Keegan (ph.) with MSRC and his
14 comment -- the information that he had was that they were
15 reporting 10 barrels as the volume in the water.

16 Q. And what time did this call take place?

17 A. That call would be sometime between about 9:45 and
18 10:00 a.m.

19 Q. Okay. Any further information about the size of the
20 spill?

21 A. A volume, no.

22 MR. CARTER: Are you talking, throughout the day?

23 BY MR. STANSEL:

24 Q. During the time that you were en route to the incident.

25 A. I had not specific information about a volume.

1 Q. Okay.

2 A. There were -- when their photographs of the vessel were
3 available on the Internet, there was speculation that it could be
4 much larger.

5 MR. CARTER: Were you receiving any calls from people,
6 not so much in numbers, but observations?

7 MR. McFARLAND: We had -- I was in communication with
8 the U.S. Coast Guard Sector San Francisco, as well as with MSRC,
9 who had vessels on scene relatively quickly, and the initial
10 reports that we got was that there was no visible oil at the
11 ship's location, which was Anchorage 7 at the time, and there was
12 only sheen, a very light sheen, in the area. And that was
13 consistent with what the Coast Guard had reports of and what MSRC
14 vessels were reporting initially.

15 BY MR. STANSEL:

16 Q. Okay. And so you mentioned that you had made some phone
17 calls to activate some assets?

18 A. That's correct.

19 Q. And that first call was to?

20 A. MSRC.

21 Q. MSRC. What did you instruct them to do?

22 A. I got the information from MSRC that they had already
23 been notified of the casualty and that they were already deploying
24 two skimming vessels and four boom boats, and I confirmed with
25 them that I was the QI or O'Brien's was the QI and that they

1 should proceed with that deployment.

2 Q. Okay. And so they were to report to you or for any
3 follow-up questions or directives?

4 A. Correct.

5 Q. Okay.

6 A. I would be their point of contact --

7 Q. Okay.

8 A. -- for activation of the resources.

9 Q. Okay. Was there anyone else that you were in contact
10 with?

11 A. Directly after that, I spoke to Sector San Francisco,
12 informed them that we were -- that O'Brien's was the QI --

13 Q. Okay.

14 A. -- and that we were going to preparing to mobilize a
15 spill management team to San Francisco. I also relayed to them
16 the information on resources that we had deployed, which were the
17 two skimming vessels, a spill chaser and -- I have to look at my
18 notes. There were two skimming vessels originally deployed and
19 the four boom boats.

20 Q. Do you recall who at Sector San Francisco took that
21 call?

22 A. The initial call, I'm not positive. The reason --
23 because I was at an actual oil spill exercise at the time, in
24 Ventura.

25 Q. Okay.

1 A. And to save time, we had some Coast Guard folks there
2 and so I grabbed one of them and I asked him, can you call into
3 Sector San Francisco and get me a direct number rather than going
4 through the Command Duty Office and all of that. So I grabbed the
5 Coast Guard representative from MSD Santa Barbara and I grabbed an
6 MSRC employee, who were both at the exercise that I was at, and we
7 kind of went outside quickly to put our heads together. And so
8 when she handed me the phone, I'm not positive who I spoke to
9 first.

10 Q. Okay. Who is she?

11 A. Throughout the day --

12 Q. Who is she?

13 A. The Coast Guard -- the Coast Guard person from Santa
14 Barbara.

15 Q. Okay.

16 A. Throughout the day, my contact was typically with
17 Lieutenant Bor with Sector San Francisco. But I'm not positive if
18 that's who I spoke to the very first time.

19 Q. Okay. So you received information that MSRC had
20 deployed already and that they were now working for you?

21 A. Um-hum.

22 MR. CARTER: You have to say yes so we can hear it.

23 MR. McFARLAND: Yes.

24 BY MR. STANSEL:

25 Q. Okay, thank you. And what did you do at that point?

1 A. At that point the decision was made that I would become
2 the incident commander and I basically headed for my truck and
3 started driving to San Francisco.

4 Q. Okay. From?

5 A. From Ventura.

6 Q. Ventura. What was the travel time?

7 A. I arrived at Sector San Francisco, I believe it was
8 6:00 p.m.

9 Q. Along the way, did you have any involvement in directing
10 the on-water activities?

11 A. Yes, I was in almost constant phone contact with
12 different folks as I was driving up; repeatedly with MSRC;
13 repeatedly with Coast Guard Sector San Francisco; with members of
14 my team at O'Brien's, trying to establish and procure hotel space,
15 potential hotel ballrooms for command center locations, from the
16 logistics side; arranging for which of our team members we were
17 going to immediately deploy, what their ETAs were, flight
18 arrangements. I don't have any notes; I was driving. So I could
19 tell you I was on my phone just about constantly --

20 Q. Okay.

21 A. -- the entire time. But my recollection is, about every
22 hour, I was in contact with Sector San Francisco and also with our
23 command, the O'Brien's command center in Slidell, Louisiana.

24 Q. While you were en route to the, to the command post, who
25 was functioning as the incident commander at that time?

1 A. As the incident commander, it was Ben Benson, who was
2 operating from our Slidell command center.

3 Q. Was he, too, directing the on-water activities or --

4 A. We were -- I was directing MSRC's activities, as far as
5 deployment, and I think he or one of the operations guys in the
6 command center was in contact with NRC Environmental Services.

7 Q. Okay. When did you learn that the size of the oil spill
8 was much larger than the initial 10 barrels?

9 A. I learned it was 58,000 gallons in a briefing when I
10 arrived at Yerba Buena Island at -- I think it was roughly
11 6:00 p.m.

12 Q. Was anyone else in the organization aware of a much
13 larger figure, even if it hadn't been actually quantified at that
14 time, earlier in the day?

15 A. We were suspicious of a larger volume because of the --
16 we had skimmable oil and the skimmers were reporting that they
17 were in skimmable oil, which would be unusual for a 10 barrel
18 spill.

19 Q. Okay.

20 A. We also had reports of heavy odors near San Francisco
21 and near Alcatraz, which also indicated there was probably a
22 larger volume, certainly, than 10 barrels.

23 Q. Did you relay any of these observations to the Coast
24 Guard?

25 A. The volume of the reports of odors from downtown San

1 Francisco I received from the Coast Guard.

2 Q. Okay. What about the skimmable oil that was being
3 encountered?

4 A. That was from MSRC.

5 Q. Did you provide any of that information to the Coast
6 Guard?

7 A. I am not -- I'm not a hundred percent sure. I'm sure I
8 did when we spoke on an hourly basis.

9 Q. You spoke to the Coast Guard hourly?

10 A. Roughly.

11 MS. THOMAS: Who are you referring to that you spoke to
12 at the Coast Guard?

13 MR. MCFARLAND: Lieutenant Bor.

14 BY MR. STANSEL:

15 Q. Lieutenant Bor. And what generally was the content of
16 your conversation with Bor? Were you relaying the contractors'
17 observations or where their equipment was?

18 A. Right, we were relaying what equipment we had
19 deployed --

20 Q. Um-hum.

21 A. -- what they were encountering, if we had the
22 information, and then we were asking the Coast Guard what
23 information they had. We continued to ask them, you know, what
24 update do you have? They had two small boats that they had
25 deployed and we were asking them, you know, what do your -- what

1 do you guys see? What are your boats reporting?

2 Q. What were they telling you?

3 A. I think the first report was they had nothing, nothing
4 new to share with us. And I believe, a later report, they did
5 report observations of light oil in a couple of streamers from the
6 Bay Bridge to Anchorage 7.

7 Q. Did you have any communications with the state on-scene
8 coordinator?

9 A. No, I did not.

10 Q. Was it just mainly the Coast Guard?

11 A. It was solely with the Coast Guard.

12 Q. Okay.

13 MS. THOMAS: Did you speak with them at all?

14 MR. McFARLAND: Not before we arrived.

15 BY MR. STANSEL:

16 Q. Did --

17 MR. CARTER: Let me make sure. Not until you arrived at
18 6:00 that night?

19 MR. McFARLAND: That's correct.

20 BY MR. STANSEL:

21 Q. Was there -- did anyone tell you that they weren't
22 allowing you to operate as the incident commander unless you've
23 arrived at the command post?

24 A. No.

25 Q. That never was conveyed to you?

1 A. Not to me.

2 Q. Did you know -- did you have any problems locating a
3 site for the unified command, the -- was the command post
4 identified as you were en route --

5 A. It was initially identified as Yerba Buena Island, the
6 Coast Guard sector.

7 Q. Um-hum.

8 A. And then, later in the day, we were informed that the
9 command post would be moved to Fort Mason.

10 Q. Okay. So when you arrived at 6:00 p.m. that night, what
11 happened then, after your initial briefing?

12 A. Well, we received an initial briefing. It was a meeting
13 with the parties at Yerba Buena Island. Part of that briefing was
14 an overview of what observations we had, either from on the water
15 or from the air. There was a briefing from the OSPS, from OSPR,
16 on the estimated volume of the spill. And that's when I -- that's
17 when I heard the 58,000 gallon number.

18 MR. CARTER: So between the time you heard 10 barrels,
19 initially, until you heard the 58,000 number, you weren't aware of
20 any other number in between?

21 MR. McFARLAND: I never heard any numbers, no.

22 BY MR. STANSEL:

23 Q. You suspected more but you didn't have a number on it?

24 A. Right. We suspected more because of the photographs of
25 the ship and the observations and the odor.

1 Q. The photograph of the ship, did you see that before --

2 A. I did not. I was driving, but the folks in my command
3 center in Slidell informed me that they had seen photographs of
4 the ship on the Internet and it didn't look very good.

5 Q. So you knew, or based on your experience, that it was
6 going to be more significant than 10 barrels?

7 A. We suspected that it was more than 10 barrels.

8 Q. And did you gauge the magnitude of the response based on
9 the 10 barrel estimate or --

10 A. No.

11 Q. Did that have anything to do with the magnitude of your
12 response?

13 A. No. If it was 10 barrels, we probably wouldn't have
14 deployed two skimming vessels. The response was gauged on the
15 casualty and reasonable potential.

16 Q. Did anyone provide you with the maximum potential that
17 the spill had, in other words, the volume of the tanks that were
18 involved?

19 MR. CARTER: Are you asking if they advised him of that?

20 MR. STANSEL: Yes.

21 MR. McFARLAND: I don't recall anyone advising me of the
22 tank capacities of those tanks. I don't even -- I wasn't aware of
23 how many tanks were actually involved or breached initially, so I
24 didn't hear any numbers regarding the tank capacities, that I
25 recall.

1 BY MR. STANSEL:

2 Q. So as far as the communications with MSRC and -- who was
3 your point of contact there?

4 A. Barry Keegan.

5 Q. Barry Keegan?

6 A. Uh-huh.

7 Q. And he was receiving information from the crews that
8 were in the field?

9 A. That's my understanding.

10 Q. And relating them to you?

11 A. That's my understanding.

12 Q. And was there any discussion about whether to ramp up
13 the response based on the fact that they were running into
14 skimmable oil?

15 A. Later in the, later in the day, we advised them to
16 mobilize more resources and at some point I think the comment was
17 mobilize everything.

18 MR. CARTER: What time was that?

19 MR. McFARLAND: I believe it was -- I'll have to look at
20 some notes. But I know, later in the day, we mobilized Clean Bay
21 II, which is a skimming vessel out of San Francisco. And then
22 also California Responder, which I think was around 1:00 or --

23 MS. THOMAS: The Responder?

24 MR. McFARLAND: Yes.

25 MR. CARTER: What time was that?

1 MR. McFARLAND: The Pacific Responder was underway at
2 14:18, but we had requested mobilization of that before. I'm
3 looking for that time. We requested mobilization at 1:00, 13:00.

4 BY MR. STANSEL:

5 Q. Okay. And you did that as you were traveling to the
6 command center?

7 A. That's correct.

8 Q. Okay. And that was based on the feedback that you were
9 getting from the observations on the water or what went into that
10 decision?

11 A. It was feedback that we -- we just didn't have a clue
12 how big it was. Obviously it was more than 10 barrels. It was
13 foggy, the currents were very, very swift, conditions were nearly
14 impossible and that was the decision.

15 Q. And the damage to the vessel played into it as well?

16 A. Sure.

17 Q. Okay.

18 MR. CARTER: But I guess Mr. Stansel's question was, was
19 that based on what you were hearing from the field, what people on
20 the water were telling you?

21 MR. McFARLAND: Yes, based on what was -- what we -- we
22 encountered skimmable oil. The boats had deployed booms. The
23 skimmers were skimming. We knew we didn't have all of it in one
24 place. We knew what the currents were like and what the tides
25 were like. And again, we had these vapor detections in Alcatraz

1 and downtown San Francisco, which would indicate a much larger
2 volume.

3 BY MR. STANSEL:

4 Q. At this briefing where they were discussing how they
5 quantified the spill, they being the Coast Guard or the state,
6 what exactly was discussed as far as that?

7 A. The OSPS from OSPR basically discussed his calculations
8 based on interviews with the crew.

9 Q. How were those -- was that presentation received in the
10 unified command?

11 A. Well, I can -- I can't --

12 Q. By you and --

13 A. Do you want me to speculate on how that --

14 Q. No, no. What was your reaction?

15 A. My reaction was I was incredulous.

16 Q. Why?

17 A. Because I couldn't believe the spill was that big. I
18 couldn't believe that, you know, we didn't have -- 58,000 gallons
19 is a pretty good sized volume, certainly not a huge spill but it's
20 very large. But we had heard nothing -- I had heard nothing from
21 anybody on volume, you know, until 6:00 p.m. and suddenly it's
22 58,000 gallons.

23 Q. Was there any other reason why you didn't believe that
24 that was correct?

25 MR. CARTER: Is that based on your experience?

1 MR. MCFARLAND: Well, based on my experience and I was
2 almost surprised, I guess, that we were still operating in a very
3 small conference room and my personal observation was that it
4 didn't seem like it was people's attitudes were in tune with the
5 spill of that size. I was surprised. I think my comment was, you
6 mean to tell me that we have 58,000 gallons of black oil on San
7 Francisco Bay? And they said, oh, we've recovered 8,000. And I
8 said, okay, so you mean to tell me that we have 50,000 gallons of
9 uncontained black oil on San Francisco Bay? Because we had gotten
10 a briefing on what the over-flight observations were and the over-
11 flight observations didn't suggest that kind of volume.

12 MR. STANSEL: Okay.

13 MR. MCFARLAND: And I said, so we have 50,000 gallons of
14 black oil on San Francisco Bay and we don't know where it is? And
15 that was my comment.

16 BY MR. STANSEL:

17 Q. What about the others in the unified command, what
18 discussion did you have with the Coast Guard and the state OSCs
19 about this?

20 A. It was primarily just a briefing. Captain Uberti was
21 there, Lieutenant Roberts was there. We discussed -- they
22 discussed moving the command post to Fort Mason, in the morning.

23 Q. Okay. But what about the oil spill volume, did everyone
24 settle on the fact that it was 58,000 or was it --

25 A. Yeah.

1 Q. -- against your better judgment?

2 A. No. I mean, if that's the number, that's the number.

3 MR. CARTER: Well, I guess the -- did you think it was
4 higher or lower than that, or did you need to know?

5 MR. McFARLAND: I accepted the number based on the
6 calculations that the experts made on the ship.

7 BY MR. STANSEL:

8 Q. Okay. So --

9 MR. CARTER: So you didn't have -- I'm sorry, I just
10 want to make sure.

11 MR. STANSEL: Go ahead.

12 MR. CARTER: You didn't have an opinion as to how big it
13 was at all?, I mean, even have a number mind, did you?

14 MR. McFARLAND: I didn't have a number, but based on the
15 briefing that we had from the over-flight observations that were
16 done late in the afternoon, the over-flight observations did not
17 suggest that volume of oil. That's why my comment was that we had
18 50,000 gallons out there and we don't know where it is, because
19 it's not -- it doesn't jive with what the helicopter has seen.

20 BY MR. STANSEL:

21 Q. Okay. So that took place at about 6:00?

22 A. Correct.

23 Q. Was there further discussion about this or was it
24 immediately settled upon that we had 58,000 gallons?

25 A. There wasn't really any further discussion. If that's

1 the volume, it's not going to make a difference at this point.

2 Q. Okay.

3 A. We had mobilized everything we had. It was a matter of
4 coordinating resources at first light, based on the fact that we
5 didn't know exactly where all the oil was. That was our biggest
6 concern at the time.

7 Q. Okay. What then was done with -- as far as further
8 notifications of other agencies or localities, who was taking the
9 decision to take this 58,000 gallon figure and publish it?

10 A. Well, I know there was a conference call with the, with
11 the OES on an OES conference call line and the Coast Guard
12 arranged for that conference call that evening and I believe
13 that's where that volume was communicated to the local OES
14 coordinators.

15 Q. And you participated in the call?

16 A. I sat in the room and --

17 Q. Um-hum.

18 A. -- was there for the conference call.

19 Q. And what time did that occur?

20 A. I don't recall the exact time.

21 Q. Was it soon after the briefing?

22 A. It was within an hour, I think, after the brief. Again,
23 I'm not exactly sure.

24 MR. CARTER: And who was making the call? Who was --

25 MR. MCFARLAND: Captain Swatland was the person who was

1 on the call, that I knew of. I was in his office.

2 BY MR. STANSEL:

3 Q. Who else was present?

4 A. Nobody.

5 Q. Just you and Captain Swatland?

6 A. That's correct.

7 Q. And what did he communicate to OES about the spill?

8 A. He communicated that they believed the volume was 58,000
9 gallons. And there was further discussion with the OES folks on
10 the line. I couldn't hear everybody on the line.

11 Q. Was there decisions being made as to which jurisdictions
12 would be notified?

13 A. Not that I'm aware of.

14 Q. Did -- you said you weren't present when the Coast Guard
15 did its spill quantification earlier in the day. Did they --

16 A. I'm sorry?

17 Q. You weren't present there when the Coast Guard did its
18 own spill quantification earlier in the day, the first day?

19 A. I'm not aware of any quantifications that the Coast
20 Guard did.

21 Q. Did you get a briefing about what they found, the
22 initial pollution investigators that responded to the vessel?

23 A. No.

24 MR. CARTER: Are you talking about the Coast Guard --

25 MR. MCFARLAND: The Coast Guard?

1 MR. CARTER: -- and the Fish and Game?

2 MR. STANSEL: The Coast Guard.

3 MR. McFARLAND: Or Coast Guard and Fish and Game?

4 BY MR. STANSEL:

5 Q. No, the Coast Guard, the Coast Guard. When you first
6 responded to the vessel, did you receive any briefing as to what
7 they found?

8 A. No.

9 MS. THOMAS: I think what he's referring to, initially,
10 the Coast Guard sent out a pollution investigation team,
11 consisting of Petty Officer Anderson and -- Petty Officer, and
12 they went out and talked to the chief engineer and tried to
13 quantify the spill and they came back with -- they called back to
14 the Command Center an estimate of a hundred and forty gallons or a
15 hundred and forty-six gallons, something that extent.

16 MR. McFARLAND: Okay.

17 MS. THOMAS: And so this was prior to
18 Roy Mathur, from OSPR, going out to the vessel --

19 MR. McFARLAND: To the vessel.

20 MS. THOMAS: -- and doing a more comprehensive sounding
21 of the tanks, et cetera, et cetera.

22 MR. McFARLAND: Okay.

23 MS. THOMAS: So they had initially called back the
24 hundred and forty gallon figure.

25 MR. McFARLAND: I heard the hundred and forty gallon

1 number but it wasn't until the next day.

2 MR. STANSEL: Okay.

3 MR. McFARLAND: And I think it was in some discussions
4 in a press conference where this hundred and forty gallon number
5 came out in questions and that was the first I had heard of the
6 hundred and forty gallon number.

7 MR. CARTER: And so the answer to Mr. Stansel's
8 question, were you aware that the Coast Guard had done an initial
9 attempt to calculate the number and then somehow arrived at this
10 140 gallons?

11 MR. McFARLAND: I was aware that they had sent a
12 pollution investigation team to the vessel. I had not heard any
13 results on what their findings suggested.

14 MR. CARTER: The first day or at any time?

15 MR. McFARLAND: I didn't hear the volume until day two,
16 I think, when I heard it in the press conference.

17 MR. STANSEL: Okay.

18 MR. McFARLAND: Because I had never heard the hundred
19 and forty gallon number before the second day. We heard the 10
20 barrel number from MSRC and then we heard the 58,000 gallon number
21 from Mathur. I didn't know where this hundred and forty gallon
22 number came from in the press conference until somebody had said
23 the Coast Guard made that determination at some point, I guess,
24 during day one.

25 BY MR. STANSEL:

1 Q. And Lieutenant Bor never mentioned that they had a
2 pollution investigation team on the ship while you were en route
3 to the Command Center?

4 A. I don't know if he -- he probably did. I assumed that
5 they did. That's standard practice.

6 Q. Right.

7 A. I was aware that they had deployed two small boats, two
8 Coast Guard sector boats, for surveillance and -- but I was not
9 made aware of any specifics of the findings or determinations made
10 by that initial pollution boarding team.

11 MR. CARTER: But you were aware that Fish and Game had
12 gone on and done a calculation?

13 MR. McFARLAND: But that was once -- yeah. Once I
14 arrived at Yerba Buena Island, I was made aware of that.

15 MR. CARTER: And that their calculation had come up with
16 an actual number?

17 MR. McFARLAND: That's correct.

18 BY MR. STANSEL:

19 Q. During the first day of the response, did you feel that
20 the OSROs that were out there on the water were acting without any
21 direction or did you feel like you had a handle on what was going
22 on?

23 A. They were operating on direction by us to basically go
24 and survey the area, find the heaviest oil you can find and start
25 recovering it. Yet, remember that when the incident occurred, it

1 was extremely heavy fog. We had a 900-foot ship that obviously
2 had already had a casualty. We didn't know if there were
3 containers in the water or not, which is not uncommon for
4 container vessels. That was a navigational hazard. We knew we
5 had floating debris from the fendering off the bridge, which was a
6 floating hazard.

7 We had almost a four knot current in the area and when
8 the ship first hit the bridge, it continued to proceed north, on a
9 northern course to Anchorage 7, which we now know is in the
10 opposite direction that the oil went, which went to the south on
11 the incoming tide. Normal policy and procedures and expectations
12 are that we would send the vessels, the response vessels, to the
13 ship location and we initially did that. And when they did that,
14 they found nothing. That's when we basically said, then keep
15 looking. Go find oil and recover it. And that's when they began
16 searching in the area, finding the heaviest oil concentrations
17 they could without direction from the air, of course, and begin
18 recovering.

19 Q. Okay. During the initial response, did you have access
20 to the contractors' equipment inventory? Was that ever a problem
21 for you?

22 A. No. We exercise with NRCES and MSRC on a weekly basis.
23 You know, we have a very, very strong understanding of what
24 equipment they have available and we might've requested an
25 equipment list from NRC. I think the folks in Slidell probably

1 did, in Louisiana. But you know, knowing what they had available
2 and deploying what we did wasn't an issue.

3 Q. Okay.

4 MR. CARTER: Could I ask a follow-up? Mr. Stansel asked
5 you about whether you believed the OSROs were acting without
6 direction. On your way up, did you designate someone to act as
7 an acting or infield incident commander?

8 MR. McFARLAND: Yeah, we did, actually. Barry Keegan
9 was designated to act as the operations section chief until I
10 arrived, and he was directed to coordinate with NRC and coordinate
11 his assets with theirs as well. So there was direction given to
12 MSRC to take the lead and to coordinate. We didn't want two
13 separate responses going on by two separate contractors. So Barry
14 Keegan I know was in contact with NRC Environmental to try to
15 coordinate, one, for safety, obviously, because we had a bunch of
16 boats out there flying around, and two, to coordinate those
17 resources so we weren't duplicating effort. We didn't have guys
18 fighting over, you know, oil.

19 MR. CARTER: You also mentioned Ben Benson. What was
20 his role?

21 MR. McFARLAND: Well, Ben was the incident commander
22 until I arrived on the scene, yeah. So his role was also in
23 coordinating that and they were talking with NRC directly.

24 MR. CARTER: Okay.

25 MR. McFARLAND: But there was -- as you probably can

1 understand from looking at what's happened, there are so many
2 phone calls being made consequently and simultaneously. What we
3 consciously do, and did in this case, is have one operation person
4 directing NRC and communicating with them, and I was directing and
5 communicating with MSRC. At the point where we knew they were
6 both out there, then we designated Barry Keegan, from MSRC, to
7 take the lead on scene to make sure they were coordinating between
8 themselves and coordinating their efforts.

9 BY MR. STANSEL:

10 Q. So MSRC wasn't -- they weren't called in to it
11 initially, they were just out there?

12 A. NRC?

13 Q. NRC. Both of them, actually.

14 A. Well, MS -- my understanding, my understand was that
15 MSRC was called by the pilot.

16 Q. Okay. And NRCS --

17 A. My understanding from talking with NRCES is that they
18 actually were made aware of it by radio traffic, I believe. And
19 they deployed based on speculation.

20 Q. And how did they get incorporated into the incident?
21 Did they ultimately talk to you and --

22 A. Yes, once they verified that the ship was on contract to
23 them, they talked to our folks and they were plugged in and
24 coordinated at that point.

25 Q. Okay.

1 A. Once we were made aware that they deployed, we
2 coordinated their resources with the MSRC resources.

3 Q. Okay. The -- well, let's shift gears a little bit.
4 During the incident, there was a NOAA spill trajectory model
5 employed. Did that -- did you find that to be usual at all in
6 making decisions on deployment of resources?

7 A. I didn't see the NOAA trajectory model until I arrived
8 at Yerba Buena Island at 6:00 p.m.

9 Q. Are you able to speak for Ben Benson or Barry Keegan, as
10 to whether or not they were able to use that for any of their
11 decision making?

12 A. I'm not aware of whether they received it or whether it
13 was useful.

14 Q. That part was never --

15 A. Right.

16 Q. -- discussed with you? And you did see it once you got
17 there at 6:00 p.m.?

18 A. Correct.

19 Q. Did that tool, later on in the response, did it assist
20 you in any way? Was it a --

21 A. Well, after the first day, I mean -- well, any of us who
22 have done drills and exercises or spills in the bay area, all the
23 trajectories pretty much look the same. Within two tide cycles
24 it's everywhere. You know, I'm not -- I don't know what the
25 source is, but there's common knowledge that the entire volume of

1 the bay exchanges itself every three days. So once -- you know,
2 once the oil was out to the Golden Gate Bridge, it was going to be
3 everywhere. So although the trajectory confirmed where it went,
4 at the time I saw it, it was already there.

5 And at that point, our decisions for the next first
6 light deployment on day two were basically to put vessels
7 everywhere and to reposition them by aircraft as soon as possible.
8 But my directions to MSRC and NRC was we split them up, based on
9 their capabilities, outside the Gate or inside the Gate and we
10 basically played zone defense and put vessels every place we could
11 that we thought was going to be a convergence zone. As soon as
12 first light came up, we wanted vessels spread out everywhere so
13 there was close response to that floating oil and we could put
14 them on the oil with the aerial observations of the helicopters.

15 Q. Okay. The helicopter over-flights, I believe there were
16 two on the first day?

17 A. I believe that's correct. I know the helicopter took
18 off twice.

19 Q. And you indicated that they had not really identified
20 any large concentrations of oil?

21 A. Well, based on the over-flight map that was on the wall
22 when I arrived at Yerba Buena, at the Coast Guard, there was some
23 skimmable oil, but primarily it was streamers and light
24 concentrations in a lot of places. It's my understanding that
25 they weren't able to fly the entire response area because there

1 still was fog outside the Golden Gate Bridge.

2 Q. Were they used at all during the first day to direct the
3 skimmers?

4 A. Yes, I'm sure they were.

5 Q. Was there any --

6 MR. CARTER: Do you know that for a fact?

7 MR. McFARLAND: Well, no, but that's -- but I know that
8 it was MSRC and NRC guys on the helicopter and that was part of
9 their tasking.

10 BY MR. STANSEL:

11 Q. They didn't report specifically back to you that they're
12 using --

13 A. No.

14 Q. -- the skimmers?

15 A. That's just standard practice.

16 Q. Okay. Okay, I'll shift again to the area contingency
17 plan. Is that something that you're intimately familiar with?

18 A. Yes, more intimately now.

19 Q. Prior to the response --

20 A. Yes.

21 Q. -- did you drill with it?

22 A. Yes.

23 Q. In this area or --

24 A. Yes.

25 Q. Okay. Did you find it to be of any use? Was there

1 anything that turned out to be different than what the plan
2 would've predicted or the response advice or conditions,
3 prevention objectives or any of that found to be useful?

4 A. Certainly the area contingency plan is useful in that it
5 identifies sensitive sites and it has some sensitive site
6 protection strategies. The challenge with the area plan in the
7 bay area is the incredible number of sites that are all listed as
8 "A Sites" or highest priority sites. There's not a lot of
9 prioritization. So if you were going to list them, you know, one
10 to ten in priority, it's difficult because they're all A's, and
11 you just physically cannot deploy all of those sites
12 simultaneously. It's just impossible. So there is good
13 information in there, but it could be much more helpful. The
14 other challenge is that there are numerous strategies in the area
15 plan that are not tactically sound, or strategies that just simply
16 aren't physically feasible.

17 Q. Can you elaborate on that? That's sort of what I was
18 getting at. What was infeasible?

19 A. Well, there are some strategies that simply cannot be
20 done the way they're prescribed in the area plan, physically,
21 because of physical conditions.

22 Q. Like what?

23 A. Well, Bolinas Lagoon is a great example.

24 Q. Okay.

25 A. If you take the -- which I was not intimately familiar

1 with until later in the response. But if you take the Bolinas
2 Lagoon sensitive site strategy out of the area plan, and you take
3 that map and you look at what it suggests that it's going to be
4 done as a strategy, and you overlay that with an aerial photograph
5 or a Google Earth shot of what Bolinas Lagoon looks like, you
6 quickly understand that you're trying to put a boom in surf that
7 has potentially a four to five knot current in that inlet. It's
8 tactically impossible and it's not tactically sound. There are
9 other sites like that, but that's probably the most dramatic.

10 Q. Did you follow the guidance in the plan to the letter or
11 did you use your own judgment, more or less, in those types of
12 situations?

13 A. Well, I can't speak to what the guys in the field, you
14 know, did as far as their own judgment versus, you know,
15 prescribed exactly in the plan. The --

16 MR. CARTER: You haven't done any kind of analysis or
17 comparison, have you --

18 MR. McFARLAND: No.

19 MR. CARTER: -- of what the plan said and what they did?

20 MR. McFARLAND: No.

21 MR. CARTER: Okay.

22 MR. McFARLAND: What I did do was when I arrived at
23 Yerba Buena Island at 6:00 p.m., I asked the OSPR biologist --
24 Kathleen Jennings I think was the one that was there and I think
25 Randy Emi was there also. I asked them that evening, as soon as

1 we had this briefing, I said, do you guys have an ICS-232 form,
2 which is a resources-at-risk summary form which is part of the
3 standard ICS for oil spills. There was list out of which site
4 sensitive strategies or which protection strategies should be
5 prioritized. They had not done that yet at 6:00 p.m., so I
6 insisted that they do it immediately so that we could begin
7 planning those deployment strategies for first light and that was
8 then incorporated into the incident action plan for Thursday's
9 operation, November 8th.

10 BY MR. STANSEL:

11 Q. How many of those sites were addressed on Thursday?

12 A. I believe all of the ones that were on that list were
13 addressed on Thursday.

14 Q. Do we know what they are, what sites were taken care of
15 that day?

16 A. I don't recall the list, actually, but it's in the first
17 incident action plan. The list wasn't very long.

18 Q. Okay.

19 A. That's why I believe they were all addressed. And I
20 know two of those were addressed on Wednesday. Crissy Field I
21 know was addressed Wednesday and I believe Aquatic Park was
22 addressed on Wednesday.

23 Q. Did the local jurisdictions, Marin County, San Francisco
24 and various other locations, were they having difficulty voicing
25 their concerns in the incident command post, as far as through the

1 liaison officer, as far as addressing sensitive sites that they
2 were concerned about?

3 A. I don't know. I don't know the answer to that.

4 Q. Did you have any direct contact with these other
5 jurisdictions?

6 A. We had direct contact with San Francisco. They were in
7 the command post. I don't recall Marin County, you know, on
8 Thursday.

9 Q. Through the liaison officer?

10 A. That's how it's supposed to work, yes.

11 Q. Was there a problem with that system?

12 A. The liaison officer was replaced Thursday, I think,
13 around midday, because they were unable to fulfill their job
14 description.

15 Q. What specifically occurred there that created a problem?

16 A. I'm not aware of the exact specifics. I was -- as the
17 incident commander, I was basically working within the unified
18 command, with Captain Uberti and Rob Roberts. There were a lot of
19 concerns from local agencies, a lot of -- you know, a lot of, a
20 lot of anger and angst and it was basically understood that the
21 liaison officer function wasn't being performed adequately and
22 that person was replaced.

23 Q. Did anyone seem to have a problem with the qualified
24 individual acting as the incident commander?

25 A. Yes.

1 Q. Like who?

2 A. Well, I know the City of San Francisco came into the
3 unified command area and I believe it was the acting mayor,
4 because the mayor was out of town, and they expressed their -- I'm
5 trying to think of the word. They strongly objected, I believe is
6 the word they used, to the contractor being part of the unified
7 command.

8 Q. Did that result in any problems to the response itself,
9 you having to address this sort of thing?

10 A. No, not to me. They were informed by the Coast Guard
11 and the state that that's the way the plan was put together and
12 that's what was laid out in regulations.

13 MR. STANSEL: Crystal, I'm going to let you go and then
14 I'll --

15 BY MS. THOMAS:

16 Q. Okay. Well, let me start off by asking, do you have a
17 timeline prepared?

18 A. A timeline? Just what we prepared and then we submitted
19 for you.

20 MR. CARTER: We have the documents that we provided to
21 the NTSB -- I believe it was Mr. Estes --

22 MR. McFARLAND: Right.

23 MR. CARTER: -- back in November. I think there's up to
24 20, 25 pages of what O'Brien's has in its possession.

25 BY MS. THOMAS:

1 Q. Do O'Brien's -- do you have a timeline specific to your
2 actions? I have the NRC --

3 A. Um-hum.

4 Q. -- NRCES timeline and I have the MSRC timeline. Do you
5 have a timeline that you prepared, specific to your action, who
6 you called, who called you, what you were doing while you were
7 traveling there, that sort of thing?

8 MR. CARTER: I can tell you that, from a legal
9 perspective, we have been representing that O'Brien's have been
10 putting together timelines for internal purposes, but there's no
11 timeline that -- if you want a timeline prepared -- is that the
12 request?

13 MS. THOMAS: I'm just asking if there is one right now.

14 MR. McFARLAND: We have submitted notes that were
15 prepared by Ben Benson, that was part of our submittal, but it's a
16 timeline basically of what was happening in Slidell. I don't have
17 a timeline for my actions because, at the time, I was driving and
18 I wasn't going to pull over and take notes, unfortunately.

19 MR. CARTER: Is that the question, that he has, like,
20 handwritten notes of what he --

21 MS. THOMAS: Yes, or prepared afterwards. But I don't
22 believe I got the one from Ben Benson. I don't know if it was
23 sent to Kim Estes, but --

24 MR. CARTER: Oh, yeah, it's in the --

25 MR. McFARLAND: Yeah, it's in the submittal.

1 MR. CARTER: It's in the materials that --

2 MS. THOMAS: Is that it there?

3 MR. CARTER: No, these were hand-delivered to Kim Estes
4 on November 16th of 2007. And then they are -- in that
5 production, we have the timeline notes that were prepared by --

6 MS. THOMAS: I have those.

7 MR. CARTER: -- NRC and then you see, starting at
8 Page 17 and going through --

9 MS. THOMAS: Okay. Well, at any rate, I don't have the
10 ones from Ben Benson. I have the other part.

11 MR. CARTER: -- 23.

12 MS. THOMAS: I have bits and pieces, I think. I don't
13 know -- he's part of my group, so he should've given them to me
14 but he didn't.

15 MR. CARTER: Okay.

16 MR. McFARLAND: Well, I mean, maybe it's --

17 MR. CARTER: Those are also --

18 MR. McFARLAND: Maybe it's just --

19 MR. CARTER: One minute. These were also -- to you on
20 Tuesday, March 11th, in that packet of materials. So those are --
21 and Ben's are one --

22 MS. THOMAS: Okay.

23 MR. CARTER: -- through --

24 MS. THOMAS: Okay, I'll look at them.

25 MR. CARTER: But that is the -- in terms of a timeline,

1 that's what --

2 MS. THOMAS: Okay, but we'll get back to this. Okay,
3 great. Thank you.

4 MR. CARTER: Okay.

5 BY MS. THOMAS:

6 Q. All right. So you said that the first time you were
7 notified was 9:12 a.m.?

8 A. Yes.

9 Q. Okay. And do you --

10 MR. CARTER: Do you mean the company or you --

11 MR. McFARLAND: The company.

12 MR. CARTER: -- personally?

13 BY MS. THOMAS:

14 Q. You personally?

15 A. Oh, me personally?

16 Q. Yes.

17 A. Me personally, it was roughly 9:45.

18 Q. 9:45. And who called you, personally?

19 A. Personally, it was our Slidell command post. They
20 called me.

21 Q. And they told you of the allision but no reference to
22 oil spill?

23 A. Correct.

24 Q. Okay.

25 A. They said there was no volume reported.

1 Q. Your first action upon being notified was what?

2 A. The first action was to contact MSRC and contact the
3 Coast Guard Sector San Francisco.

4 Q. And do you recall what time you contacted MSRC?

5 A. It was shortly after that, probably 9:50, sometime just
6 before 10:00.

7 Q. And why did you contact MSRC?

8 A. To mobilize resources. Even though we didn't know there
9 was oil in the water, we were going to mobilize equipment.

10 Q. Was that because they were your --

11 A. They are listed in the plan. Yeah, both OSROs are
12 listed in the plan.

13 Q. Okay. Did you contact NRCES?

14 A. I did not.

15 Q. Do you know who contacted them?

16 A. They contacted us.

17 Q. Okay.

18 A. They contacted Slidell.

19 Q. And do you know around what time?

20 A. In their notes --

21 MR. CARTER: You're looking at NRC's notes?

22 MR. McFARLAND: Yeah, in NRC's notes, I believe it was
23 -- yeah, they actually called our CEO first at 9:45 and then
24 talked to our command post in Slidell at approximately 10:15 or
25 10:10. I'm on Page 10 of our submittal, if that helps you.

1 BY MS. THOMAS:

2 Q. Okay. I have a whole list here of agencies or
3 organizations that were notified.

4 A. Uh-huh.

5 Q. Cal. OES, Marine Safety Office San Francisco, Marine
6 Safety Office San Francisco Oiled Wildlife Care Network.

7 A. Um-hum.

8 Q. Adverse Wild Center (ph.). Are these all notifications
9 that you personally made or the O'Brien's Group?

10 A. The O'Brien's Group watchstander would make these from
11 Slidell, Louisiana.

12 Q. Did you make any of these notifications?

13 A. I did not make any of these notifications.

14 Q. Okay.

15 MR. CARTER: -- the person who would've done that?

16 MR. McFARLAND: Yeah, Danny Harrod (ph.) was the --

17 MS. THOMAS: Okay.

18 MR. McFARLAND: -- watchstander that morning.

19 BY MS. THOMAS:

20 Q. So you found out at 9:45.

21 A. And those are all Central Time, just around there.

22 Q. Oh, yeah, we ran into that problem. I have a note on my
23 page --

24 A. Okay.

25 Q. -- for on scene. Why is that?

1 A. Because our system logs, automatically logs --

2 Q. Right.

3 A. -- off of our time stamp.

4 Q. Okay. So you found out around 9:45. What time were you
5 on your way to San Francisco?

6 A. About 10:30.

7 Q. So you're in your car and what are you doing?

8 A. Driving as fast as I can legally.

9 Q. Legally.

10 A. Well, without getting caught illegally. I didn't say
11 that -- no, I was driving to -- the decision to drive was based on
12 the fact that we knew there was very heavy fog. We didn't know of
13 flight availability. I would've had to drive back to Burbank, to
14 L.A., essentially, and catch a flight to possibly Oakland. So I
15 was already in Ventura, so I began driving; I began calling out
16 members of our team, for availability, to get them on flights into
17 the bay area; talking to the Coast Guard Sector San Francisco
18 periodically; talking to our command, our Slidell command post to
19 get information from them and also to relate to them what Sector
20 San Francisco was telling me as well.

21 Q. Okay. So you had contact with MSRC as you were driving
22 up?

23 A. Yes.

24 Q. Did you have any contact with NRCES while you were
25 driving?

1 A. I did later in the afternoon.

2 Q. But not initially?

3 A. Not initially.

4 Q. Now, your contact with MSRC, were they relaying
5 information back and forth to you on the types of oil they were
6 collecting?

7 A. Not specifically. They said they deployed boom and they
8 had skimmers operating in skimmable oil. So I mean, that told us
9 it was heavier than sheen, obviously.

10 Q. And you had already said that your direction to them was
11 to find the oil and get it?

12 A. Right, right.

13 Q. Okay. And that wasn't based off any NOAA models or tide
14 tables or --

15 A. No, it was just heavy fog and you know, do the best you
16 guys can. We know it's impossible because you're not being
17 directed by the air, from the air. Just do the best you can. And
18 then, as soon as we can get a helicopter up, we'll redeploy.

19 Q. Do you recall any specific instances where you were
20 talking with MSRC? I believe you said Barry Keegan was the person
21 you were talking to?

22 A. That's correct.

23 Q. Any instances where he said -- where he told you how
24 much oil he had collected or we're running into a bunch here, we
25 picked up some here?

1 A. I don't recall him talking -- there was no volumes that
2 I recall, as far as recovered oil, no. I didn't receive any
3 volumes of recovered oil until I came to Yerba Buena.

4 Q. What I'm getting at is if you were receiving reports of
5 I got some here, I got some there, if it started to kind mount up,
6 if you felt like -- if you were getting the feeling as you were
7 driving up that maybe this is bigger than we thought.

8 A. Well, they had said they had a good batch of recovered
9 oil right off the piers in San Francisco. And then we had reports
10 of, you know, oil near Alcatraz. Then we had reports of oil, you
11 know, out near the Golden Gate Bridge. At that point, you know,
12 it was a big deal.

13 Q. Okay.

14 MR. CARTER: Is your question also the description of
15 what Mr. Keegan was giving to Barry? Was he describing ribbons?
16 Was he describing length? Was he describing width? Was he
17 describing anything like that?

18 MR. McFARLAND: Not from MSRC. We had some initial
19 descriptions from the Coast Guard observations of, you know, width
20 and length.

21 MS. THOMAS: Okay.

22 MR. CARTER: And that was with the Coast Guard?

23 MR. McFARLAND: Right.

24 BY MS. THOMAS:

25 Q. Okay. And as far as passing the information on to the

1 Coast Guard, you mentioned that you didn't -- that you were
2 speaking with Lieutenant J.G. Bor.

3 A. Um-hum.

4 Q. Did you pass on observation details to him?

5 A. I don't recall specifically if I did.

6 Q. Did you have any contact with the federal on-scene
7 coordinator while you were en route?

8 A. No.

9 Q. Captain Uberti.

10 A. No. We requested it many times. He was not available.
11 He was on a boat.

12 Q. What were you looking to talk with him about?

13 A. Just to make sure that we were flanged up and it's just
14 our common practice to talk to the captain or talk to the federal
15 on-scene coordinator and not his rep and you know, let him know
16 who we were and what we're doing, get his direct concerns. You
17 know, I had asked, you know, who is the FOOSC? Captain Uberti.
18 Can I talk to him? He's not available. He's out on a boat.

19 Q. At what point did you decide to assign Barry Keegan as
20 the acting incident commander before you arrived?

21 A. He was assigned as the ops section chief, you know, to
22 act as far as directing operations and that was about
23 12:00.

24 Q. Around noon.

25 A. I recall something like that.

1 Q. At any point was he instructed to act as the incident
2 commander --

3 A. No.

4 Q. -- in the unified command?

5 A. No.

6 MR. CARTER: What was his position? You designed --

7 MR. McFARLAND: Operations section chief.

8 BY MS. THOMAS:

9 Q. Is that a position that he held on to once you arrived?

10 A. He did the first day until we mobilized our team, yes.
11 Until I arrived at 6:00 p.m.

12 Q. So as you were coming -- driving up, did you have a good
13 feeling about -- you kind of felt like you knew what was going on?
14 Did you feel out of the loop? Did you feel like you had a good
15 handle on the situation?

16 A. Well, you never feel you have a good handle on a
17 situation when it's fog and high currents and in San Francisco
18 Bay. I felt that we were doing everything we possibly could and
19 we were coordinating as best we could with the conditions we had.

20 Q. All right. Once you get to the -- once you arrive at
21 around -- you said around 6:00?

22 A. That's correct.

23 Q. Where did you report to once you arrived?

24 A. I reported to the conference room at Sector San
25 Francisco.

1 Q. That was acting as the incident command post?

2 A. That was established as the incident command post,
3 initially.

4 Q. And who was present there when you arrived?

5 A. Well, it was quite a few folks, Captain Uberti and his
6 staff. Lieutenant Roberts was there. My initial person on the
7 scene, which was Joe Churka (ph.), who arrived before I did, about
8 5:30. He was there and he was acting as IC until I showed up, but
9 it was only about 40 minutes. Kathleen Jennings and Randy Emi
10 from SPR were there. Jordan Stout from NOAA was there. Mathur
11 from OSPR was there and some other OSPR folks.

12 Q. That's a lot of people in that little room.

13 A. It was. I mean, I was trying --

14 Q. I know the room.

15 A. I was trying to think of all the people as I'm -- my
16 eyes are going down the room.

17 Q. And so what was going on when you arrived? What were
18 they doing?

19 A. They just started a briefing on what the helicopter
20 observations were. Obviously, Mathur did the briefing on the
21 volume estimate and that was -- primarily, it was a situational
22 briefing on the conditions that had happened up until 6:00 p.m.

23 Q. And who was giving the briefing?

24 A. The Coast Guard.

25 Q. Do you recall who from the Coast Guard? Was it

1 Captain Uberti?

2 A. No, it was his staff, the people on his staff.

3 Q. Okay. And so what was discussed about the over-flights?

4 A. There was just -- it was a graphic drawn on the white
5 board, a color graphic of an over-flight map that showed where
6 resources were and where there was observable oil, and that was
7 discussed.

8 Q. Was there any discussion on how bad the over-flights
9 were, based on the conditions? Did they ever -- was there any
10 discussion of whether they caught any big patches of oil in their
11 vision?

12 A. Well, Captain Uberti made the comment that they had
13 recovered 8,000 gallons the first day, because it was already
14 approaching darkness and the decision was made before I got there,
15 that they weren't going to skim at night.

16 Q. Did you agree with that decision?

17 A. The decision was already made.

18 Q. Would you have -- if you had input on the decision,
19 would it have been the same?

20 A. Probably. We didn't discuss it in detail, but safety
21 concerns, a ferry system running at high speed across the water,
22 you know, if they had decided that we were going to do it, we were
23 going to have control traffic a lot more strictly.

24 MR. CARTER: Now, you said that you were concerned about
25 this fender that had been busted off on the bridge?

1 MR. McFARLAND: Well, we were concerned just that there
2 was fendering in the water, from a safety perspective.

3 MR. CARTER: You eventually found one, didn't you?

4 MR. McFARLAND: Well, yeah, we found -- there was fender
5 material found initially and then we found some later.

6 MR. CARTER: Where?

7 MR. McFARLAND: Down at Half Moon Bay.

8 MR. CARTER: Were there boat accidents related to that?

9 MR. McFARLAND: Not that I'm aware of.

10 MR. CARTER: Were there any concerns about that?

11 MR. McFARLAND: There was concern on the fender piece
12 that we found south of Half Moon Bay, because there was a few --
13 there were two boat accidents that happened down near Half Moon
14 Bay, later, and there was concern that that might be related to
15 it.

16 BY MS. THOMAS:

17 Q. So during that briefing, the quantification was
18 discussed, the 58,000 gallon figure was thrown out there and
19 everybody had a chance to digest it. What was the plan of action?

20 A. The plan of action was to primarily have all the
21 vessels, all the skimming vessels we had and can get available at
22 first light. We took -- we had the largest vessels outside the
23 Golden Gate and the largest in the heaviest conditions, weather
24 conditions and wave conditions. So we placed the three largest
25 MSRC vessels outside and the remainder of the skimming vessels

1 were placed inside the bay, in the best guess based on the
2 trajectory and based on local knowledge of where the convergence
3 lines were going to be, and be directed by helicopters at first
4 light. That was the main front of what the morning for day two
5 was planned.

6 Q. And that trajectory that you mentioned, those were the
7 NOAA models that were delivered to the unified command?

8 A. Correct. But you know, from prior experience, we know
9 there's pretty much areas where this -- where oil tends to
10 congregate, based on trajectories, and as I said, most all the
11 trajectories are exactly the same. There are contour areas within
12 the bay area that are natural collection points. Certainly off --
13 around Angel Island and off of the marine coast, inside where
14 there's a real distinct bathymetry change, is where oil is going
15 to congregate on a dropping tide and we've seen that for years in
16 models and for years in exercises. So part of that was -- part
17 our plan was based on that and then part of our plan was based on
18 that zone defense we talked about. Although we think that's where
19 it's going to be, we can't be sure. So let's spread these vessels
20 out in a zone defense at first light, as soon as we get up and we
21 can direct them in the heaviest oil, but the air assets will do
22 that and we'll move them.

23 Q. So now the unified command's established. All parties
24 are present. Day two rolls around and starts off fresh.

25 A. Well, he had the night of day one, still.

1 Q. Oh, night of day one, okay. How was the communication
2 between the three members of the unified command, yourself,
3 Lieutenant Roberts and Captain Uberti?

4 A. On day one or --

5 Q. Yes.

6 A. Well, I didn't have any communication with --

7 Q. I mean once you arrived.

8 A. Oh, once I arrived?

9 Q. After 6:00 p.m., after the briefing. You said you still
10 had the night of day one.

11 A. Well, it wasn't much because those guys pretty much left
12 and my team stayed at the sector office until after midnight and
13 we generated the incident action plan with the help of one of the
14 Coast Guard officers.

15 Q. So then day two rolls around. Everybody starts off
16 fresh. You have -- were all three members of the unified command
17 present at Fort Mason --

18 A. Yes.

19 Q. -- at the command post?

20 A. Yes.

21 Q. Okay. And throughout day two, throughout the response,
22 how was the communication between the three members of the unified
23 command?

24 A. It was very good. We worked as a team, consistently.
25 We reached consensus on almost everything and the cooperation was

1 very, very good.

2 Q. And did you feel like it was a team effort? Did you
3 feel like anybody was standing out, taking on the role, or was it
4 truly a team function, a team effort?

5 A. It was a team effort. I mean, that's how we exercise it
6 every time.

7 Q. And you drilled --

8 A. It was just like exercise it.

9 Q. Sorry to interrupt.

10 A. That's okay.

11 Q. Have you drilled -- you've drilled and exercised with
12 Lieutenant Roberts and Captain Uberti before?

13 A. Not with them, not with Captain Uberti and Roberts,
14 personally, but with, you know, their predecessors and
15 counterparts both here in the bay area and elsewhere in the
16 country.

17 MR. CARTER: What about Steve Ettinger (ph.), who was
18 involved, did you train with him before?

19 MR. McFARLAND: Yeah. I mean, I've worked with most of
20 the OSPR staff we've worked with before on drills or actual
21 spills. I just hadn't personally worked with Lieutenant Roberts
22 before. Captain Ettinger and I have been professional friends for
23 many years. We used to live right close together. And so most of
24 these folks are guys we see, you know, if not a weekly or monthly
25 basis, certainly numerous times a year.

1 BY MS. THOMAS:

2 Q. What was the focus of the unified command? Was it
3 focused on getting out or probing the oil and making sure that
4 they have the quantification correct? What was the focus? Where
5 was the push in the unified command?

6 A. Well, the push was really to meet our additional
7 objectives, you know, and primarily number one was safety of the
8 responders and the public. So there was a lot of focus on air
9 monitoring and making sure that safety was our number one concern,
10 environmental protection, getting those sensitive sites identified
11 and prioritized and then deployed, and then there was a lot of
12 focus on recovery of the oil, quantification. And there was a lot
13 of focus on dealing with a lot of the media issues and of course
14 liaison function, which were areas that were extremely difficult
15 because we had lost a lot of credibility on the first day or two
16 days, based on the liaison function not working and the public
17 affairs function being very difficult because of the conflicting
18 messages that had been put out on day one. Both regarding the
19 volume and regarding the drug testing of the crew, there were some
20 real credibility issues.

21 Q. Okay. Let me ask you one more question. Would the
22 response have been the same if the initial report would've been
23 58,000 gallons as compared to 10 barrels?

24 A. Not really.

25 Q. How so?

1 A. Well, we didn't have any -- the fog conditions and the
2 current conditions, there's not a whole lot I think we could've
3 done that we didn't do.

4 Q. So did --

5 MR. CARTER: I mean, is your question that if you had --
6 if there'd been no fog or --

7 MS. THOMAS: No, just if the initial estimate would've
8 been the 58,000 gallons that it was.

9 MR. STANSEL: You're saying that it wouldn't have been a
10 different response initially?

11 MR. McFARLAND: I don't think we would've covered any
12 more oil than we did, if we knew it was 58,000 gallons from the
13 very beginning. Understand, we would call out every single
14 resource at 10:00. The staffing levels and ability to get all of
15 those boats underway at the same time isn't going -- would not be
16 a whole lot different than the way it was done in this case,
17 because some of those vessels take time to staff and get underway
18 and away from the dock. And honestly, those guys were doing that.
19 NRC, certainly speculation, and MSRC, based on, you know, reports
20 of -- that weren't consistent with the 10 barrel figure.

21 BY MS. THOMAS:

22 Q. So the initial low assessment of the quantity spilled
23 did not affect the response on day one?

24 A. I don't think it did.

25 Q. What about the decision of what equipment to deploy?

1 A. There was no difference in that. We deployed the best
2 equipment we had, the highest capability, the most selective
3 skimmers to recover the least amount of water so we can maximize
4 our oil recovery.

5 Q. And I know, as far as the capacity of -- that was on the
6 water day one, I think it was 10, at least 10 tons, what was
7 required to be out there.

8 A. Um-hum.

9 Q. What do you think about the requirements? Do you think
10 the requirements are adequate and do you think they're specific
11 enough? Do you have any comment on the requirements as they are
12 now?

13 A. Well, I'm not a policymaker, I just -- I'm a policy
14 compliance guy. I comply with regulations, I don't make them. I
15 think given our experience from this response, I think there's a
16 good chance that the current planning requirements may need to be
17 looked at, from a timeframe or from a technology standpoint, to be
18 able to have better technology to detect oil movement in heavy
19 fog.

20 MR. CARTER: Is there a conflict between federal and
21 state requirements?

22 MR. McFARLAND: Well, there are no state -- there are no
23 federal requirements.

24 MR. CARTER: Is that an issue? I mean, is that an
25 issue?

1 MR. McFARLAND: Well, I mean --

2 MR. CARTER: -- federal guidelines?

3 MR. McFARLAND: You know, that's another issue; there
4 are no federal -- there's just no federal regulation on non-tank
5 vessels yet, so we exceeded the federal regulations even more.

6 BY MS. THOMAS:

7 Q. Were you satisfied with the actions of both of the oil
8 spill response organizations, MSRC and NRCES?

9 A. Yeah. We recovered 33 percent of the spill on water,
10 which is phenomenal. You know, normal recovery rates are 10 to 15
11 percent. So to recover a third of the oil from on-water
12 operations in about four days is pretty remarkable given the
13 conditions that are out there, the dynamic conditions of the bay
14 area, the current speeds. If you haven't flown up -- if you
15 haven't flown over the bay area and seen the dynamics where you
16 have oil laid up in streamers that looks really great and
17 recoverable oil and you come back 30 minutes later and it's gone.
18 I mean, literally, that's how quick these change. The convergence
19 lines are incredibly dynamic. And to have the number of skimmers
20 that we had, being directed as well it was from the air, were able
21 to recover 33 percent, which it's remarkable, to tell you the
22 truth. I'm very, very happy that we were able to do that.

23 MS. THOMAS: Okay. Paul, do you have any questions?

24 MR. STANSEL: Just a couple to follow up with.

25 BY MR. STANSEL:

1 Q. The ISPR report makes reference to an auditing company
2 that was reported to have been distracting the cleanup and
3 disrupting some of the field responses and issuing contrary
4 orders. Are you aware of any of that?

5 A. Yes.

6 Q. What specifically occurred there?

7 A. There was a third-party company that was hired by the
8 underwriters and they were tasked with three things. One is to
9 monitor the response to ensure that it's efficient and cost
10 effective, two was to handle third-party claims, and the third was
11 to pay the contractor invoices.

12 Q. Okay. And what sort of problems erupted over this --

13 A. Well, there were distractions. I wouldn't say there was
14 any way they hindered the actual response, but there were
15 distractions to our team. Do you want specific examples or --

16 Q. Yes.

17 A. Well, at least once, one of these auditors called one of
18 our field supervisors and told them to not begin work until they
19 were there or could arrive and see what was going to be done. We
20 ignored that.

21 Q. Okay.

22 A. In the claims process, there was a delay in processing
23 claims, for example, on recreational vessels, where the
24 recreational vessels had been surveyed and it was possibly two
25 weeks to 20 days before we got the information to get and be able

1 to clean those vessels and some of those fiberglass vessels then
2 were stained with the oil. You know, it couldn't be cleaned
3 because the oil had been on the boat for a number of weeks prior
4 to us getting the information to be able to go and take care of
5 those vessels.

6 And at least at one point they demanded a meeting with
7 the Coast Guard and they came into the command post and expressed
8 that the club, the underwriters, were extremely concerned about
9 claims and extremely concerned of how things were going and
10 expressed their -- you know, their displeasure in how things were
11 handled. And so those were just things that were disruptions in
12 the process, having a third party there, you know, monitoring
13 things and being thrown in the mix.

14 Q. Ultimately, you don't feel that it affected the
15 response?

16 A. No, I don't think it hindered the response. As I said,
17 you know, they were trying to -- at one point, at least, trying to
18 make us wait for their auditor guys to be on scene and we don't do
19 that. We report and we respond to unified command's direction,
20 you know, and if they're not there, too bad.

21 Q. And the last thing I have, regarding the volunteers that
22 responded to the spill, did any of the volunteer groups result in
23 any distraction to the work crews, the OSROs?

24 A. No.

25 Q. Did they help or hinder the response?

1 A. I don't know that they did either. The volunteer
2 program was -- we were -- I was ordered to put together a
3 volunteer program, even though it was inconsistent with the area
4 contingency plan. The area plan specifically said volunteers will
5 not be used to recover oil. And we were basically ordered by the
6 Coast Guard to put together a plan to incorporate volunteers on
7 that weekend, that first weekend.

8 One of the conditions of the volunteer plan, the
9 program, was that we were not going to have professional
10 contracted cleanup crews on the same beaches and that was my
11 insistence, for a couple of reasons, one, the liability issue and
12 two, we didn't want -- we wanted to be very, very clear where our
13 crews were working and where the volunteers were working, so that
14 if people were tracking oil out of the hot zone and if people were
15 disrupting wildlife or people were doing things that were not
16 consistent with our plan, then it was very clear that those
17 weren't our people. So everyone's wearing the same yellow tieback
18 suits. And we asked for a buffer zone between those crews, just
19 to make sure that we knew where our crews were and knew that any
20 reports that came in about, you know, not following the plan, that
21 was the -- you know, that would be a different group, it wouldn't
22 be our group. So I don't think there was any hindrance on the
23 response, on our contractors. I don't know -- I can't -- I don't
24 have any quantification on how well -- for how well they did or
25 how much they recovered or how much they helped.

1 MR. STANSEL: Okay, I don't have anything further.

2 BY MS. THOMAS:

3 Q. One more thing on the volunteers.

4 A. Um-hum.

5 Q. I know there was a big push to have the volunteers and
6 to create some sort of volunteer program. Did that distract the
7 unified command at all? Did it take time away from something
8 else?

9 A. Well, sure. It was a -- that effort probably took us a
10 better part of a day to work through those issues and meet with
11 the local agencies and that was time that we could've been working
12 on other issues.

13 Q. And was that something that you -- the members -- or the
14 other members of the unified command had to do personally? Could
15 you assign people to do that for you or is that something you had
16 to do personally?

17 A. Well, we basically had to do it -- I had to do it
18 personally, I can tell you that, because I was tasked with doing
19 it. And we were still trying to recover from the credibility
20 issues from the first liaison officer's failure. And the second
21 liaison officer was doing a much better job, but the fact of the
22 matter was there was very little trust in that function. So I
23 could tell you that, as the response went on, I spent an
24 inordinate amount of time, you know, in with the liaison group, in
25 with those local groups, trying to make them feel like they're

1 more part of the response.

2 For example, we would do our briefing with the unified
3 command. Then I would immediately go into the other area where
4 all the other agencies were and give them a briefing personally.
5 So yea, it took away from our -- it wasn't necessarily the
6 volunteer thing, it was the entire liaison function. But the
7 volunteer effort probably took us off task for the better of a
8 day.

9 Q. And do you think that affected the overall recovery
10 response effort?

11 A. I don't really think that did. You know, unified
12 command was distracted with a ton of media, with a ton of, you
13 know, political visits by everybody from the commandant, the
14 speaker of the house, the governor, twice, Senator Feinstein, you
15 know, state senators. I mean, we were constantly distracted by a
16 hundred things. You know, luckily, the response moves forward
17 based on our plan and people on our staff, the deputy commander,
18 for me, and my operations section chief, they carry out the plan,
19 they carry out the response. They don't need my constant input to
20 get things done. So yeah, it's a huge distraction, but did it
21 affect our ability to tactically recover the oil? No.

22 Q. And is that because, after day one, starting day two,
23 there were incident action plans? The OSROs, took their direction
24 from the incident action plan or were they awaiting formal
25 direction from you throughout the day?

1 A. No, they would take their direction from the incident
2 action plan.

3 Q. Okay.

4 A. And it was from us. You know, it was from our division
5 supervisors.

6 MR. CARTER: May I follow up on a few things?

7 MR. STANSEL: Certainly.

8 MR. CARTER: Thank you.

9 BY MR. CARTER:

10 Q. On the volunteers, you said that the ACP did not -- in
11 fact, did not allow for the use of volunteers?

12 A. The area plan says that volunteers will not be used for
13 recovery of oil.

14 Q. And that the Coast Guard overrode that and ordered you?

15 A. That's correct.

16 Q. Did the Coast Guard also order you to change any other
17 part of the plan or any other type of the response?

18 A. Well, we were ordered very earlier on to -- it was
19 expressed to us that this wasn't going to be a typical response
20 and that, for example, on the 9th, we were basically ordered to
21 mobilize resources, to put people on every beach simultaneously
22 and we expressed, you know, that normally we would prioritize
23 things, say, one through 10 and we would have resources and we'd
24 start with one and we'd get to 10. And it was acknowledged that
25 they understood that was how we normally do things and we normally

1 wait for shoreline cleanup assessment teams to assess the
2 shorelines before we ever start cleanup, but that wasn't
3 acceptable because of the political pressure and the situation.
4 So we were ordered to mobilize enough people to clean up every
5 beach at the same time.

6 Q. And to follow up with what Ms. Thomas asked you about
7 what the response -- whether it would've been different had you
8 known it was 58,000 versus 10 barrels. You said that the response
9 would've been the same, because you mobilized everything you had.

10 A. Yes.

11 Q. Was there other factors, the fact that the boat went one
12 way and the tide went the other way? I mean, you would even have
13 been able to find the oil even if you had said it was 58,000
14 gallons?

15 A. I mean, I don't think we found it any quicker and or any
16 slower because there was -- you know, because of the volume. It
17 was what it was. And all of those factors that were there the
18 first day contributed to the fact that it was, it was maybe an
19 unknown quantity, but the conditions were so bad that it really
20 didn't make a whole lot of difference.

21 Q. Why? Why not?

22 A. Well, because we couldn't see. We couldn't see where
23 the oil was. The oil went south and the vessel went north. We
24 were in the wrong place initially to begin with and then once that
25 tide turns and those currents start to run, you know, within a

1 couple hours it's out to the Golden Gate Bridge.

2 Q. And did the OSROs respond to the vessel or did they
3 respond to the spill?

4 A. I know that MSRC responded to the vessel. That's where
5 we told them to go.

6 MS. THOMAS: MSRC?

7 MR. McFARLAND: MSRC.

8 BY MR. CARTER:

9 Q. And do you know how fast that spill occurred?

10 A. The Coast Guard, I think, estimated that the volume was
11 released in something like 10 seconds.

12 MS. THOMAS: But that wouldn't be -- I saw those
13 calculations. In your opinion, would that be -- or from what you
14 know about oil spills, the first 10 seconds, yes, the majority,
15 but would you agree that it would continue to come out as the boat
16 moved to Anchorage 7, in smaller amounts?

17 MR. McFARLAND: A little bit, but that wasn't consistent
18 with the observations. When MSRC got to the ship, it wasn't
19 leaking and there was no oil in the water.

20 MS. THOMAS: And they arrived at the ship at around?

21 BY MR. CARTER:

22 Q. MSRC or NRC?

23 A. MSRC.

24 MS. THOMAS: I think that was the spill chaser.

25 MR. McFARLAND: Yeah, the spill chaser arrives on scene

1 and 9:50.

2 MS. THOMAS: And they didn't see anything coming out?

3 MR. McFARLAND: Yeah. And that's when we decided --
4 that's when we redirected the resources. The boom boats were
5 originally going to boom the -- you know, typically is isolate the
6 vessel because you're going have residual. And they said there's
7 nothing coming out. We don't see anything in the water around the
8 vessel. Use the boom elsewhere. Go find oil and recover it.

9 BY MR. CARTER:

10 Q. And the tide is going south?

11 A. Right. Well, the vessel is at anchor, so everything was
12 going south from the vessel anyway.

13 Q. The vessel went north after --

14 A. Right.

15 Q. -- hitting the bridge?

16 A. The vessel did go north.

17 Q. And the last thing I wanted to ask was that Ms. Thomas
18 asked about whether or not the OSROs may have been out there
19 without direction while you were driving up, or whether they were
20 -- what kind of direction. Is it my understanding that Mr. Keegan
21 was given responsibility to give some direction to the people on
22 the water?

23 A. That's correct.

24 Q. And in addition to what you were doing, you had
25 Ben Benson and people in Slidell that were giving directions?

1 A. That's correct.

2 Q. So you had multiple inputs?

3 A. That's correct.

4 MR. CARTER: Okay.

5 MS. THOMAS: Anything else --

6 MR. CARTER: Thank you.

7 MS. THOMAS: -- you'd like to add?

8 MR. CARTER: About the response or the --

9 MS. THOMAS: About the response or if there's anything
10 you think could help us with our investigation.

11 MR. McFARLAND: Well, I think the one thing I would was
12 that -- just to reiterate that we deployed 800 people on the
13 shoreline in roughly 72 hours, from once the -- from day two when
14 we started having shoreline impact, we were ordered to bring
15 everything to bear and we mobilized 800 people in 72 hours, which
16 I'm not sure has ever been done before. And I don't know any
17 other organization that could do that. We do -- we respond to
18 over 700 spills a year and we respond on scene to over a hundred
19 spills a year. We've managed the largest, you know, tanker spills
20 in the U.S., ever since the Valdez, the West Chester spill in
21 Louisiana, the Athos spill in Philadelphia, Hurricane Katrina, and
22 responding on behalf of the Coast Guard, under contract of the
23 Coast Guard. We put, I think, over 55 of our people on scene
24 within three days as well.

25 And we also took a command post that was a derelict

1 building that hadn't been occupied in four years and turned it
2 into a command post in 24 hours, with 70 phone lines, two T-1
3 Internet connections, you know, and ramped up a full kitchen and
4 everything else within the next couple of days. So I think
5 regarding the success of what was done, I think it speaks to how
6 quickly we're able to put people on the ground who have the
7 expertise and the experience and had done this before. All the
8 people that are in our senior positions in the ISC organization
9 are battle tested. They've all been through major spills.

10 A lot of the folks that were in our response were on the
11 Athos spill for months. They were on Katrina for months. Some of
12 the guys had been on Katrina for years. And we still actively are
13 involved in two responses in Louisiana, at least, from Hurricane
14 Katrina. So luckily, the expertise that we had didn't put us out
15 of our element. This is not something that we've never done
16 before. I think that's one thing that's lost on the local
17 agencies who have never responded to an oil spill, who believe
18 that they should run things. But I think, in hindsight, hopefully
19 when everything's run out of the hose, that people understand
20 that, you know, the organization we put together is an
21 organization that has -- it does this every single day. We
22 respond to two spills a day and we do at least two to three drills
23 a week and we probably do two or three ICS training classes a
24 week, as an organization. This is our everyday job. This is not
25 something we just do when there's nothing else to do or when a

1 ship just happens to hit a bridge. This is -- you know, there's a
2 lot of ships that hit a lot of bridges, all the time.

3 MR. CARTER: If I could add? Ms. Thomas, you asked
4 about a timeline. In preparation for this session today, Barry
5 has in front of him those documents that we did provide to
6 Kim Estes in November, as well as the ones I e-mailed you the
7 other day. So some of the questions, I wanted to make sure, it
8 sounded like some may have gone back and forth between what Barry
9 did versus what maybe O'Brien's did and I want to make sure that
10 if you have any questions about what Barry did versus what
11 O'Brien's did, some of that would be reflected -- Barry, I don't
12 think you've prepared any of these particular documents, other
13 than signing letters that you may have sent to Kim Estes.

14 MR. McFARLAND: Right, just the e-mails that I drafted
15 in response to the request that Kim had before.

16 MR. CARTER: So when you're answering these questions,
17 you're looking at -- some of these are your own ICS forms.

18 MR. McFARLAND: Correct.

19 MR. CARTER: And Ben Benson's notes, MRC -- MSRC's and
20 NRC's. So hopefully we've provided you the information you needed
21 and if you need a clarification, let us know --

22 MS. THOMAS: Okay.

23 MR. CARTER: -- about what Barry did versus what other
24 people did from O'Brien's --

25 MS. THOMAS: Okay.

1 MR. CARTER: -- so we can accurately answer your
2 questions. But we do have -- you do have copies of those.

3 MS. THOMAS: Okay. And you said they've all been
4 e-mailed to me, so --

5 MR. CARTER: Yeah, I did.

6 MS. THOMAS: -- I have them.

7 MR. CARTER: I sent them to you on March 13th at 4:06,
8 but I can -- you can have this.

9 MS. THOMAS: I don't have any printing access.

10 MR. CARTER: I can give you this.

11 MS. THOMAS: I could print it out. Thank you.

12 MR. CARTER: This is my copy. Okay, take that.

13 MS. THOMAS: Okay.

14 MR. CARTER: There's a whole package.

15 MS. THOMAS: All right.

16 MR. CARTER: Anything else?

17 MS. THOMAS: Thank you very much. That's it.

18 MR. CARTER: Okay.

19 (Whereupon, the interview in the above-entitled matter
20 was concluded.)

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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: The Investigation of the Cosco
 Busan/Bridge Allision
 San Francisco, California
 Interview of Barry McFarland

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PLACE: San Francisco, California

DATE: March 13, 2008

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been compared to
the recording accomplished at the hearing.

David Martini
Transcriber

Ms. Thomas,

In reading the transcript of my interview of March 13, I have noted a few minor clarifications and/or typos.

1. Please make the spelling of MSRC representative Barry Keegan consistent throughout.
2. Page 52 line 13 "marine" should read "Marin" (as is Marin County)
3. Page 56 line 11 "covered" should read "recovered"
4. Page 63 line 7 please insert "part" to read "better part of a day."

Please supplement the record to reflect these clarifications,

In addition, I look forward to receiving the agenda as soon as available as stated in your email from yesterday.

Thank you,

Barry McFarland
Manager, Western Region

The O'Brien's Group
2929 E. Imperial Hwy, Suite 290
Brea, Ca 92821
www.theobriensgroup.com